

Office of the Secretary, Education

§ 31.5

or a waiver of rights available to the employee under this part or other applicable law if the employee has not agreed in writing to the offset.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.4 Request to inspect and copy documents relating to a debt.

(a) The Secretary makes available for inspection and copying before offset under this part those Department documents that relate to the debt, if the employee—

(1) Files a written request to inspect and copy the documents within 20 days of the date of the pre-offset notice under § 31.3, and

(2) Files the request at the address specified in that notice.

(b) A request filed under paragraph (a)(1) of this section must contain—

(1) All information provided to the employee in the pre-offset notice under § 31.3 that identifies the employee and the debt, including the employee's Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) A reasonably specific identification of the documents that the employee wishes to have available for inspection and copying.

(c) The Secretary makes available documents for inspection and copying upon request by the employee. However, the Secretary may initiate an offset before making the requested documents available if the employee fails to request inspection and copying in accordance with this section.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.5 Request for hearing on the debt or the proposed offset.

(a) *Deadlines.* (1) The Secretary provides a hearing before offset on the existence, amount, or enforceability of the debt described in the pre-offset notice provided under § 31.3, or on the amount or frequency of the offsets as proposed in that notice, if the employee—

(i) Files a request for the hearing within the later of—

(A) 65 days after the date of the pre-offset notice provided under § 31.3; or

(B) 15 days after the date on which the Secretary makes available to the employee the relevant, requested documents if the employee had requested an opportunity to inspect and copy documents within 20 days of the date of the pre-offset notice provided under § 31.3; and

(ii) Files a request at the address specified in that notice.

(2) The Secretary provides a hearing upon request by the employee. However, if the employee does not submit, within the deadlines in paragraph (a)(1) of this section, a request that meets the requirements of paragraphs (b) and (c) of this section, the Secretary does not delay the start of an offset, or suspend an offset already commenced, unless the employee submits evidence satisfactory to the Secretary that the request was not made in a timely manner because the employee did not have notice of the proposed offset, or was otherwise prevented from making the request by factors beyond his or her control, until after the deadlines had passed.

(b) *Contents of request for a hearing.* A request for a hearing must contain—

(1) All information provided to the employee in the pre-offset notice under § 31.3 that identifies the employee and the particular debt, including the employee's Social Security number and the program under which the debt arose, together with any corrections needed with regard to that identifying information;

(2) An explanation of the reasons why the employee believes that—

(i) The debt as stated in the pre-offset notice is not owing or is not enforceable by offset; or

(ii) The amount of the proposed offset described in the pre-offset notice will cause extreme financial hardship to the employee;

(3) If the employee contends that the amount of the proposed offset will cause extreme financial hardship under the standards set forth in § 31.8(b)—

(i) An alternative offset proposal;

(ii) An explanation, in writing, showing why the offset proposed in the notice would cause an extreme financial hardship for the employee; and